



**DEPARTMENT OF THE ARMY**  
PITTSBURGH DISTRICT, CORPS OF ENGINEERS  
WILLIAM S. MOORHEAD FEDERAL BUILDING  
1000 LIBERTY AVENUE  
PITTSBURGH, PA 15222-4186

May 4, 2011

REPLY TO

ATTENTION OF:

Operations Division  
Regulatory Branch  
**2010-1437**

Nate Weinstein  
Koppers, Inc.  
100 Koppers Road  
P.O. Box 665  
Follansbee, West Virginia 26037

Dear Mr. Weinstein:

I refer to your email, received in this office on April 20, 2011, requesting a modification to Department of the Army Permit No. 2010-1437 issued to you, with the revised description you provided, to construct a barge dock loading and unloading facility on the Ohio River, left bank, mile 69.3, in Follansbee, Brooke County, West Virginia.

The permit was revised to reflect the correct dolphin construction information. Please attach the enclosed page to the executed copy of your permit. Please note that a copy of this permit must be available at the work site at all times. In addition, the Construction Notification form at the end of this permit must be completed and returned to this office prior to commencement of the work.

All other conditions of your Permit remain in full force and effect.

If you have any questions, please contact Kristen Hoesch at 412-395-7375 or by email at [Kristen.L.Hoesch@usace.army.mil](mailto:Kristen.L.Hoesch@usace.army.mil).

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

  
Scott A. Hans  
Chief, Regulatory Branch

Enclosure

## DEPARTMENT OF THE ARMY PERMIT

**PERMITTEE:** Koppers, Inc.

**PERMIT NUMBER:** 2010-1437

NOTE: The term you and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**PROJECT DESCRIPTION:** Koppers, Inc., 100 Koppers Road, P.O. Box 665, Follansbee, West Virginia, 26037 IS HEREBY AUTHORIZED BY THE SECRETARY OF THE ARMY TO: construct a new floating barge dock loading and unloading facility on the left bank of the Ohio River, Mile 69.3. Two dolphins, each containing four (4), 24-inch diameter casing pipes will be installed to secure the floating barge. A new access walkway will be constructed from the bank to the barge dock. Five new pipes will be constructed to the barge dock for loading and unloading materials. IN ACCORDANCE WITH THE GENERAL AND SPECIAL CONDITIONS, AND THE PLANS AND DRAWINGS AND ANY ADDITIONAL SPECIAL CONDITIONS ATTACHED HERETO WHICH ARE INCORPORATED IN AND MADE A PART OF THIS PERMIT.

**PROJECT LOCATION:** THE PROJECT IS LOCATED on the Ohio River, left bank, mile 69.3, in Follansbee, Brooke County, West Virginia.

### PERMIT CONDITIONS

#### GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on December 31, 2013. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you must make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you may obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.



**DEPARTMENT OF THE ARMY**  
PITTSBURGH DISTRICT, CORPS OF ENGINEERS  
WILLIAM S. MOORHEAD FEDERAL BUILDING  
1000 LIBERTY AVENUE  
PITTSBURGH, PA 15222-4186

REPLY TO

January 7, 2011

Operations Division  
Regulatory Branch  
**2010-1437**

Nate Weinstein  
Koppers, Inc.  
100 Koppers Road  
P.O. Box 665  
Follansbee, West Virginia 26037

Dear Mr. Weinstein:

I refer to your draft Department of the Army Permit, which was received back in this office on December 13, 2010. Enclosed for your records is a fully executed copy of Department of the Army Permit No. 2010-1437 with the revised description you provided, to construct a barge dock loading and unloading facility on the Ohio River, left bank, mile 69.3, in Follansbee, Brooke County, West Virginia.

Please note that a copy of this permit must be available at the work site at all times. In addition, the Construction Notification form at the end of this permit must be completed and returned to this office prior to commencement of the work.

If you have any questions please contact Kristen Hoesch at 412-395-7375 or [Kristen.L.Hoesch@usace.army.mil](mailto:Kristen.L.Hoesch@usace.army.mil).

Sincerely,

Marcia Haberman  
Chief, Southern Section  
Regulatory Branch

Enclosures



## DEPARTMENT OF THE ARMY PERMIT

**PERMITTEE:** Koppers, Inc.

**PERMIT NUMBER:** 2010-1437

NOTE: The term you and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**PROJECT DESCRIPTION:** Koppers, Inc., 100 Koppers Road, P.O. Box 665, Follansbee, West Virginia, 26037 IS HEREBY AUTHORIZED BY THE SECRETARY OF THE ARMY TO: construct a new floating barge dock loading and unloading facility on the left bank of the Ohio River, Mile 69.3. Two, 24-inch diameter casing pipe dolphins will be installed to secure the floating barge. A new access walkway will be constructed from the bank to the barge dock. Five new pipes will be constructed to the barge dock for loading and unloading materials. IN ACCORDANCE WITH THE GENERAL AND SPECIAL CONDITIONS, AND THE PLANS AND DRAWINGS AND ANY ADDITIONAL SPECIAL CONDITIONS ATTACHED HERETO WHICH ARE INCORPORATED IN AND MADE A PART OF THIS PERMIT.

**PROJECT LOCATION:** THE PROJECT IS LOCATED on the Ohio River, left bank, mile 69.3, in Follansbee, Brooke County, West Virginia.

### PERMIT CONDITIONS

#### GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on December 31, 2013. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you must make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you may obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
8. A copy of this permit must be kept at the work site at all times and made available to all contractors and subcontractors.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899.

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.



b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.


b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as this specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

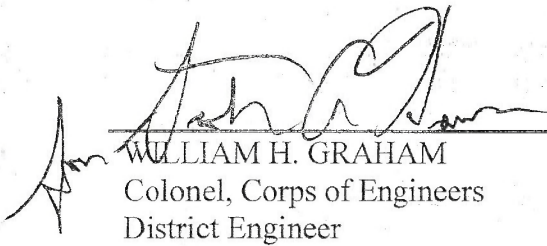
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
(PERMITTEE)

12/10/10  
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
WILLIAM H. GRAHAM  
Colonel, Corps of Engineers  
District Engineer

7 Jan 2011  
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFeree)

\_\_\_\_\_  
(DATE)

DATE: December 1, 2010

FILE NO: 2010-1437

**NOTIFICATION OF APPLICANT OPTIONS (NAO)  
FOR PARTIES ISSUED A DEPARTMENT OF THE ARMY INDIVIDUAL PERMIT**

You are hereby advised that the following options are available to you in your evaluation of the enclosed permit:

(1) You may sign the permit and return to the District Engineer for final authorization. Your signature on the permit means that you accept the permit in its entirety, and waive all rights to appeal the permit or its terms and conditions.

(2) You may decline to sign the permit because you object to certain terms and conditions therein, and you may request that the permit be modified accordingly. You must outline your objections to the terms and conditions of the permit in a letter to the District Engineer. Your objections must be received by the District Engineer within 60 days of the date of this NAO, or you will forfeit your right to request changes to the terms and conditions of the permit. Upon receipt of your letter, the District Engineer will evaluate your objections, and may: (a) modify the permit to address all of your concerns, or (b) modify the permit to address some of your objections, or (c) not modify the permit, having determined that the permit should be issued as previously written. In any of these three cases, the District Engineer will send you a final permit for your reconsideration, as well as a Notification of Appeal (NAP) form and a Request for Appeal (RFA) form. Should you decline the final proffered permit, you can appeal the declined permit under the Corps of Engineers Administrative Appeal Process by submitting the completed RFA form to the Division Engineer. The RFA must be received by the Division Engineer within 60 days of the date of the NAP that was transmitted with the second proffered permit.



## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant:	File Number:	Date:
Attached is:		See Section Below
INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission) A		
PROFFERED PERMIT (Standard Permit or Letter of Permission) B		
PERMIT DENIAL C		
APPROVED JURISDICTIONAL DETERMINATION D		
PRELIMINARY JURISDICTIONAL DETERMINATION E		

**SECTION I:** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at:  
<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/appeals.htm> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

## **SECTION II:**

### **REQUEST FOR APPEAL OR OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

### **POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

The Project Manager Identified In Your Jurisdictional Determination Letter  
or

Appeal Review Officer, Ms. Pauline Thorndike

U.S. Army Corps of Engineers

Great Lakes and Ohio River Division

550 Main Street, Room 10032

Cincinnati, OH 45202-3222

(513) 684-6212

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent \_\_\_\_\_ Date \_\_\_\_\_ ( ) Telephone Number \_\_\_\_\_